

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-6 were pending prior to the Office Action. Claims 7-34 have been added through this Reply. Therefore, claims 1-34 are pending. Claims 1, 3, 5, 6, 7, and 21 are independent.

ALLOWABLE SUBJECT MATTER

Applicants appreciate that claims 3-4 are indicated to define allowable subject matter. Claim 3 has been amended into an independent claim and includes the subject matter of claim 1. Therefore claim 3 is allowable. Claim 4 depends from claim 3. Therefore, claim 4 is also allowable.

§ 102 REJECTION - YAMADA

Claims 1, 2, 5, and 6 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Yamada et al. (USPN 6,067,171, hereinafter "Yamada"). Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. See *M.P.E.P.* 2131; *M.P.E.P.* 706.02. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Yamada fails to teach or suggest each and every claimed element. For example, independent claim 1 recites, in part, "an image selecting device which **selects** at least one image to be transmitted." *Emphasis added.* Independent claims 5 and 6 also recite similar features.

Contrary to the Examiner's assertion, Yamada cannot be relied upon to teach or suggest at least this feature. The Examiner asserts that the document sensor for detecting the presence of document is equivalent to the image selecting device as recited. See *March 16, 2004 Office Action*, pages 2-3, item 3. However, there is no concept of "selecting an image" disclosed in Yamada. In Yamada, when the document is fed to the facsimile machine, the machine simply reads and stores the images into the SRAM 15. See *Yamada*, column 4, lines 40-42. The facsimile machine of Yamada cannot complete transmitting unless all of a sequence of scripts (sheets) are transmitted. None of the cited

references indicate a concept of randomly selecting images to be transmitted.

It then naturally follows that Yamada also cannot be relied upon to teach or suggest the feature of "a transmittability determining device which determines whether or not it is possible to transmit all of image data of the **selected** image according to the amount of data in the selected image and the residual quantity of the battery." *Emphasis added.*

Independent claim 5 is distinguishable over Yamada for other reasons as well. Claim 5 also recites, in part, "when a plurality of images are selected to be transmitted, if it is determined that it is impossible to transmit all of the image data, the control device transmits only transmittable image data per image and prohibits the rest of image data from being transmitted." In other words, even if all selected images cannot be transmitted, a subset of the selected images can be transmitted.

Contrary to the Examiner's assertion, Yamada cannot be relied upon to teach or suggest this feature. More specifically, the Examiner relied upon column 4, lines 40-46 of Yamada to

teach the above-recited feature. However, Yamada states the following:

Then, judgment is made whether or not **all** the image data retained in the SRAM 15 can be transmitted in relation to the residual amount of the battery 23. If the transmission is judged possible, the transmission operation is affected, and if not, the transmission is **not** affected. *Emphasis added; see Yamada, column 4, lines 43-47.*

In other words, Yamada specifically teaches that either **all** images are transmitted or **none** are transmitted. There is **no concept** of transmitting a subset of the images in Yamada.

Indeed, to the extent that Yamada specifically teaches an all or nothing proposition to sending data, Yamada specifically **teaches away** from the feature of "if it is determined that it is impossible to transmit all of the image data, the control device transmits only transmittable image data per image and prohibits the rest of image data from being transmitted" as recited in claim 5.

Also independent claim 6 recites, in part, "the image data comprises main image data **and thumbnail image data.**" In the March 16, 2004 Office Action, the Examiner asserts that the document page read by the reading section 21 of the facsimile 10 is equivalent to the main image data as recited.

For the sake of argument, Applicant assumes that the Examiner's assertion is true. However, the Examiner merely states that Yamada discloses a thumbnail image data (*see March 16, 2004 Office Action, page 4, second paragraph*), but does NOT provide any reference to which portion of Yamada that is so relied upon.

Indeed, it is clear that Yamada cannot be relied upon to teach the thumbnail image data. Yamada clearly states that when document pages are scanned, the scanned data is compressed and stored in the SRAM 15. *See Yamada, column 5, lines 1-5.* However, Yamada is completely silent regarding whether any other type of information may be stored in the SRAM 15. In other words, **only** the compressed scan data are stored in SRAM 15. In other words, Yamada is completely silent regarding any features related to the thumbnail images. Therefore, Yamada cannot be relied upon to teach or suggest the feature of "the image data comprises main image data **and thumbnail image data.**"

For at least the reasons stated above, independent claims 1, 5, and 6 are distinguishable over Yamada. Claim 2 depends from claim 1. Therefore, for at least the reasons stated with respect to claim 1, claim 2 is also distinguishable over Yamada.

Applicant respectfully requests that the rejection of claims 1, 2, 5, and 6, based on Yamada, be withdrawn.

NEW CLAIMS

Claims 7-34 have been added through this reply. All new claims are believed to be distinguishable over the cited references, individually or in any combination. For example, claim 7 recites, *inter alia*, "wherein image data for each image comprises a plurality of data components" and "determine whether or not at least some data of the selected images may be transmitted." Claim 21 recites similar features. It has been shown above that Yamada fails to teach or suggest at least these features. Claims 8-20 and 22-34 depend from independent claims 7 and 21 directly or indirectly.

For at least the reasons stated above, it is respectfully submitted that all new claims are allowable over cited prior art of record. Applicant respectfully requests that new claims be allowed.

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CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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